In the High Court of Punjab and Haryana, Chandigarh

C.W.P. No. 18808 of 2006

Date of Decision: 14.12.2006

Deep Chand …Petitioner

Versus

Union of India & others …Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE M.M.S. BEDI

PRESENT: Dr. Surya Parkash, Advocate,
for the petitioner.

JUDGMENT

M.M. KUMAR, J. (Oral)

The prayer made in this petition is for issuance of direction to the respondents to grant pension to the petitioner. It is admitted position that the petitioner was enrolled on 18.12.1959 after his selection in the Territorial Army. He was discharged on 30.8.1973 from the Territorial Army. For claiming pension the petitioner through his counsel has served legal notice dated 3.4.2006 (P-3), which has been duly replied by respondent No. 3. According to the reply sent by respondent No. 3, dated 22.6.2006 (P-7), the record of the petitioner was retained till 1.1.1999 and it has to be destroyed in accordance with para 595 of the Regulation for the Army (Rev 1987) after expiry of 25 years from the date of retirement/discharge. The petitioner has been described as a Non-Pensioner. It has been clarified that in accordance with the Long Roll

maintained by them, his date of enrolment and discharge as specified above has been verified. He is stated to have been discharged under the Territorial Army Act and Rule 14(b)(iii) of the Territorial Army Regulations, 1948. It has been found that the petitioner was not entitled to pension.

We have heard learned counsel at some length and are of the view that this petition is liable to be dismissed because the petitioner has approached this Court after expiry of more than 30 years. Ordinarily in pension matter delay of this magnitude also may not cause obstruction to issue a writ of mandamus, yet, in the present case we are disinclined to do so because the record which could have been the basis for filing reply by the respondents has been destroyed in accordance with para 595 of the Regulations for the Army (Rev. 1987) and the petitioner has been described as non-pensioner. The respondents are entitled to act in accordance with the aforementioned rules for destroying the record and intervention of this Court at such a belated stage is likely to prejudice the rights of the respondents as it will not be possible for them to file appropriate reply to the averments made by the petitioner in the petition. In such like cases, therefore, the delay would certainly step in and we regret our inability to interfere in the same and hearing the case on merit. Dismissed on the ground of delay and laches.

(M.M. KUMAR)
JUDGE

(M.M.S. BEDI)
JUDGE

December 14, 2006

Pkapoor